IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.8009 OF 2005

Anandkumar Moreshwar Joshi .. Applicant
Versus
State of Maharashtra .. Respondent

Mr.Jayesh Kocheta for applicant
Mrs.S.D.Shinde, A.P.P. for State.

CORAM : S.C.DHARMADHIKARI, J.
DATE : 12th December 2005.

P.C.

. Heard Mr.Bansode for applicant and Mrs.Shinde, A.P.P. for respondent.

2. The only contention of Mr.Bansode appearing for applicant, who is also arrayed as co-accused in the case registered at the instance of complainant i.e. Manager of Satara District Central Cooperative Bank, is that all officers

including branch manager and development officers have been enlarged on bail. Applicant was working as Tax Consultant with Kukudwad branch of the said bank. Therefore, on parity he should be released on bail. That apart, it is contended that in the statement of Manager of complainant bank, no role at all is attributed to the applicant herein. It is further contended that the said Bhise has owned up entire fraud and has admitted that amounts deposited by him in several accounts are belonging to him and in fact withdrawn by him. In these circumstances, applicant who is a Tax Consultant with the Bank cannot be treated differently.

3. Mrs.Shinde, on the other hand strongly contends that the applicant is the main conspirator and the beneficiary. He has assisted said Mr.Bhise in syphoning off the amounts. She submits that one of the accused has admitted paying Rs.4,75,000/- to the applicant for

preparing mortgage deed and even though he was informed that the said amount is involved in the fraud, applicant did not return it. She, therefore, submits that the applicant cannot be treated similarly as that of the other accused and his application be rejected on merits.

4. Applicant had filed Misc.Application No.350 of 2005 for bail in the trial court. Said application was listed along with other applications. As far as present applicant is concerned, I find that trial court, apart from recording the statements of both sides has not made a specific reference to the applicant that he was allegedly falsifying the accounts and documents.

5. In my view, in normal course, this matter should have gone to trial court and the application for bail made by the applicant herein would have been revived. However, the fact

remains that applicant is a Tax Consultant of bank. He is not responsible for the entries in the account and the preparation of documents as well as drafts. Persons concerned, with these acts and his superiors have been enlarged on bail. Mr.Bhise has along with absconding accused sypohoned off the monies belonging to bank. Applicant herein as Tax Consultant was prima facie only a beneficiary. Applicant has been in custody for nearly seven months. Further, applicant has pointed out that he is a permanent resident of Pune and resides at the addressed mentioned in the cause title and possesses immovable properties in Pune. He is not likely to abscond. He is also willing to abide by such conditions as are imposed upon him. In my view, now that investigations are complete and charge sheet is filed and all necessary documents and records have been seized and further no apprehension that the applicant would not be available for trial is expressed, this

application deserves to be granted. Hence, following order:-

i) Applicant is released on bail in connection with C.R.No.6 of 2005 registered with Mhaswad Police Station, Dist.Satara in the sum of Rs.10,000/- with one or two sureties in the like amount.

ii) Applicant shall report to Mhaswad Police Station twice a week on every Monday and Thursday between 10.00 a.m. and 1.00 p.m.

iii) Applicant shall not directly or indirectly make any inducement or threat to any prosecution witnesses and shall not in any manner tamper with prosecution evidence.

iv) Applicant shall cooperate with the learned Trial Judge for expeditious disposal of the trial. Any attempt by the applicant to delay the trial may be a ground for cancellation of bail.

v) Any observation made in this order shall not be construed as any finding or any expression of opinion on the merits of the case at the time of trial.

vi) Application disposed of.

vii) All parties to act upon an authenticated copy of this order.

(S.C.DHARMADHIKARI, J)